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## THE FOURTH GENERATION OF HUMAN RIGHTS: MEANINGFUL CONTENT IN THE DIGITAL SOCIETY

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### Summary

The article is devoted to a study of the concept of the fourth generation of human rights in the context of modern challenges of the digital society. The relevance of the study is due to the need to rethink the traditional generational classification of human rights, developed by K. Vasak, in connection with the emergence of fundamentally new forms of legal relations, where the object is data and information in digital format. The purpose of the study is to conduct a theoretical and legal analysis of the concept of the fourth generation of human rights in the context of determining its content in the digital society. The study uses a systematic approach, comparative law, structural-functional and prognostic methods. The limitations of the traditional three-generational classification are analyzed, in particular its Eurocentric nature and disregard for the cultural diversity of legal traditions. The dual nature of the impact of digitalization on the human rights system is revealed: modification of traditional rights and emergence of fundamentally new challenges. The structure of the fourth generation of human rights, which includes digital and somatic rights, is studied. Specific characteristics of digital human rights that distinguish them from previous generations are identified: a specific object of legal relations - information and data in digital format; implementation through digital technologies. The article draws attention to the ethical dilemmas associated with the expansion of the catalog of human rights, in particular the potential conflict with traditional religious and moral norms. It is stated that the formation of the fourth generation of human rights reflects fundamental changes in the nature of social relations under the influence of digital technologies. This transformation requires not just a supplement to the existing system of rights, but its qualitative reconfiguration, taking into account new forms of social interaction and the likely challenges and threats caused by the nature of the digital space. The conclusion is made about the need for a balanced approach to the development of the fourth generation of rights, combining legal, ethical, technological and social aspects to ensure the protection of human dignity in conditions of rapid civilizational changes.

**Key words:** human rights; fourth generation of human rights; digital rights; somatic rights; digital society.

### 1. Introduction

The issue of human rights and their classification remains one of the most debatable topics in modern law, especially in the context of rapid technological development and digital transformation of society. The traditional generational concept of human rights, developed in the second half of the twentieth century, today requires critical rethinking and supplementation due to the emergence of fundamentally new challenges for the protection of human dignity.

The relevance of the study is due to several factors. First, the intensive digitalization of all spheres of public life gives rise to new forms of legal relations, where the object is data and information in digital format. Second, the development of biotechnology and medicine actualizes the issue of somatic human rights related to the disposal of one's own body. Third, the existing system of classification of human rights demonstrates its inability to adequately respond to the challenges of the digital era, which requires the development of new conceptual approaches.

Analysis of recent research and publications indicates the growing interest of scholars in the issues of the fourth generation of human rights. Fundamental studies by L. Hunt (2007) and M. Ishay (2004) reveal the historical evolution of the concept of human rights. Modern studies by T. Flew (2021), M. Mann and T. Matzner (2019) analyze the digital aspects of human rights. Domestic scholars S. Nesynova, Y. Knyazeva (2015), O. Suprun (2013) investigate the problems of classifying new rights. At the same time, there is a lack of comprehensive research into the structure and content of the fourth generation of human rights in the scientific literature.

The purpose of the study is to conduct a theoretical and legal analysis of the concept of the fourth generation of human rights in the context of determining its content in the digital society.

Research objectives: 1) to analyze the general characteristics of development of the concept of human rights; 2) to investigate the generational classification of human rights and its limitations; 3) to determine the structure and content of digital and somatic rights as components of the fourth generation.

The research methodology is based on a systemic approach, which allows us to consider human rights as a holistic phenomenon in its historical dynamics. The comparative legal method was used to analyze different approaches to the classification of human rights, the structural-functional method to determine the place of the fourth generation in the system of human rights, as well as the prognostic method to identify trends in the development of this legal category.

## **2. The general characteristics of development of the concept of human rights**

The evolutionary development of the concept of human rights, their institutionalization in national legislation and international legal documents have demonstrated the existence of a historically conditioned sequence of the formation of rights and freedoms. Over the past two centuries, the spectrum of rights recognized as natural and inalienable has expanded significantly. Forming in historical retrospect, the institution of human rights includes various normative “layers” that reflect the transformation of ideas about the essence of the corresponding legal concept. The institution of human rights demonstrates one of the most striking examples of the implementation of legal concepts into the practice of normative regulation. All key aspects of social development have directly affected the evolution of human rights (L. Hunt, 2007, p. 43).

Human rights constitute a unique phenomenon of legal reality: initially they arise as a theoretical idea, later receive normative consolidation in legal acts and constitutions, and in the second half of the twentieth century they are transformed into fundamental principles of international law. Each historical era

of social transformations has generated its own “generation” of human rights, designed to overcome social instability and ensure sustainable development. Such generational dynamics of human rights reflects the progressive nature of legal progress and the adaptation of legal institutions to changing social needs (M. Ishay, 2004, p. 41).

The integrity and internal logic of the system of human rights and freedoms does not contradict the possibility of their systematization into certain groups based on one or more criteria. Systematization is of extremely important theoretical significance, the main goal of scientific systematization of human rights is to highlight their social role, identify key characteristics and conduct an in-depth study of their essence. It is systematization that contributes to the structuring of scientific knowledge about human rights as a holistic phenomenon and about the specifics of individual rights accumulated by humanity at the current stage of development. At the same time, the complexity of the classification of human rights is due to the heterogeneity of their specific content and dispersion across different articles of constitutional texts. The methodological function of systematization is to create a conceptual framework for the analysis of legal institutions and identify the patterns of their evolution: such structuring allows not only to organize existing theoretical knowledge, but also to identify gaps in legal regulation and promising directions for the development of the institution of human rights (J. Nickel, 2019, p. 990).

To construct a structural model of the human rights system and identify categories and types of rights, it is necessary to establish criteria (characteristics, bases of differentiation) for their systematization. In this regard, the question arises: what criteria for classifying rights should be recognized as essential and what is their optimal number? Legal science has not yet offered an exhaustive answer to this question. The structural components of the system of human and citizen rights, including the categories of rights, have not received a proper monographic study either in the general theory of law or in constitutional law. This situation is explained by the extraordinary diversity of human rights and their subjects, as well as the multiplicity of possible criteria for dividing rights as a holistic phenomenon into separate components. The methodological complexity lies in the fact that each of the possible classification criteria highlights only a certain aspect of human rights, leaving out of consideration other important characteristics. This creates the need for a multi-criteria approach to systematization, which, however, complicates the creation of a single consistent classification scheme. The lack of established theoretical approaches to the structuring of human rights leaves this issue open for further scientific research.

### 3. Generational classification of human rights

The systematization of fundamental rights and freedoms corresponds to the concept of “generations” of rights and freedoms developed by legal theorists. Today, this concept is generally recognized and established both in the general theory of law and in the science of constitutional law. Each “generation” of human rights is based on a certain legal doctrine of rights and freedoms – natural law or positivist (S. Nesynova & Y. Knyazeva, 2015, p. 37).

The theory of dividing human rights into “generations” was developed by the French jurist K. Vasak. The basis of this concept is the generational approach, namely the division of rights into three generations (O. Suprun, 2013, p. 37). The theory of three generations of human rights appeared as a result of the scientific systematization of human rights in a historical perspective.

The first generation of civil and political rights dates back to the 17th–18th centuries, namely in the period after the English, American, and French revolutions. They are guaranteed by Articles 2-21 of the Universal Declaration of Human Rights, and they are united by the idea of the freedom of the individual, alone or together with others, from abuses of state power (M. Antonovich, 2005, p. 14). The first generation of human rights includes traditional liberal rights and freedoms, from which, in fact, human rights in their modern sense begin: the right to life, freedom from torture, treatment or punishment degrading human dignity, the right to liberty, the right to property, freedom of thought and conscience, speech, etc. (T. Okolit, 2002, p. 10). In this case, we are talking about the demands of freedom of speech, religion, etc., put forward in relation to the state. The second generation of rights, the idea of which appears at the beginning of the 19th century and is formed after the socialist revolutions, write S. Nesynova and Yu. Knyazeva, includes social, economic, cultural rights, or in short – socio-economic rights, related to human well-being, the level and quality of his life (S. Nesynova & Y. Knyazeva, 2015, p. 36). They were reflected in the Universal Declaration of Human Rights and were developed and set out in more detail in the International Covenant on Economic, Social and Cultural Rights of 1966: the right to work, including the right to choose the field of work, the right to rest, to paid leave, to education, medical and social security, social insurance, protection of motherhood and childhood, etc. The third generation of human rights is primarily collective rights. At the same time, T. Okolit notes, the formation of the concept of the third generation of human rights is chronologically attributed to the second half of the 20th century. These, according to the scientist, include: the right of the people to self-determination, to peace, to identity, to a dignified existence, to national and international security, to development, the right of the people to freely dispose

of their natural resources, etc. (T. Okolit, 2002, p. 10). At the same time, there are many theories regarding the third generation of rights. The idea of such rights began to take shape due to the aggravation of global world problems after World War II. The peculiarity of these rights is that they are collective and can be implemented by a community (association). This point of view is held by most scientists, for example, only collective rights based on solidarity should be included in the third generation of rights: the right to development, to peace, independence, self-determination, territorial integrity, sovereignty, freedom from colonial oppression, the right to a decent life, to a healthy natural environment, to the common heritage of humanity, to communication (S. Nesynova & Y. Knyazeva, 2015, p. 37).

It should be noted that K. Vasak considered the change of three generations of human rights as a consistent embodiment of the ideals of “freedom, equality and fraternity” of the French Revolution. Intergenerational concept human rights, despite its debatability, remains one of the most common forms of categorization of human rights, however, this concept was formed under the influence of European history and is characterized by a Eurocentric approach. The theory of three generations of human rights overemphasizes the role of the European Enlightenment in the formation of modern human rights standards, ignoring the historical context of the emergence of legal requirements in different countries of the world. The evolution of human rights in different states took place according to different scenarios, therefore the application of the European trajectory of the historical development of human rights as a universal model for non-Western countries is problematic. This conceptual model, unfortunately, does not take into account the cultural, religious and socio-economic characteristics of non-Western civilizations, where the formation of ideas about human rights could occur according to different principles and in other chronological periods. Thus, despite its heuristic value, the generational classification requires critical rethinking, taking into account the global diversity of legal traditions (K. Vasak, 1977, p. 30).

### 4. The fourth generation of human rights: digital and somatic rights in modern society

The need to form the fourth generation of human rights is due to the fact that the basic knowledge of the industrial-commercial era, which embodied the three previous generations of human rights (civil and political rights, economic, social and cultural rights, as well as solidarity rights), has undergone radical transformations in the context of the digital society. The transition from the industrial-commercial to the digital stage of development requires the reconstruction of the human rights system in accordance with the laws of the functioning and life of the digital society.

The evolution of human rights must occur according to the logic of the digital society, since the lack of adequate human rights protection instruments makes it impossible to effectively protect individual rights. The specific characteristics of the digital society require appropriate specialized rights to guarantee them. The modern concept of human rights, based on educational values, faces new challenges in the digital age. The traditional model of ensuring human rights demonstrates its inability, which actualizes the need to restructure the axiological foundations of human rights in accordance with the laws of the functioning of the digital society and the establishment of digital human rights as a new legal reality. In fact, this transformation involves not just supplementing the existing system, but its qualitative reconfiguration taking into account technological realities and new forms of social relations (T. Flew, 2021, p. 315).

One of the characteristic features of digital human rights is a specific object of legal relations – information (data), presented in a special digital format. Digital human rights are implemented through digital technologies (digital implementation of rights) and belong exclusively to “digital people” (persons with digital attributes). Obligations in the field of digital human rights cover both positive and negative obligations of states and private entities. Thus, it is appropriate to attribute digital human rights to a new separate generation (or system) of rights - this solves the problem when “without new rights there is no new generation of human rights”. At the same time, fourth-generation human rights as a general legal framework can solve the problem that in the digital age “new rights appear, but they are not necessarily human rights” (for example, some countries grant robots the corresponding rights, but it is difficult to argue that these are human rights, so they cannot be attributed to the category of fourth-generation human rights). Therefore, the main characteristics of fourth-generation human rights are the necessity of digital rights in the context of a digital society and their digital implementation. This concept emphasizes the anthropocentric nature of digital rights, distinguishing them from the rights of artificial intelligence or robotic systems, and emphasizes the technologically mediated nature of their implementation (M. Mann & T. Matzner, 2019, p. 8).

Since the three previous generations of human rights were mainly concerned with social participation, living standards and equitable development in the physical world, where people, property, things and behavior in a material sense were concerned, the concepts of data and information were practically absent from them. Today, in the conditions of the onset of the digital age, everything – from personal privacy to public life, from everyday needs to public safety - is in an accelerated process of informatization and digitalization (D. Byelov & M. Bielova, 2023, p. 317).

Completely offline activities are becoming increasingly rare, the distinction between the virtual and real worlds is losing its former meaning, and the digital life of each person is becoming increasingly detailed. This transformation is radically changing the nature of social interactions and the forms of realization of human rights. In such a context, traditional legal categories that were formed to regulate relations in physical space are insufficient to protect the individual in the digital environment. Digital traces, algorithmic solutions, personal data processing and virtual identity are becoming new objects of legal regulation, requiring specialized legal instruments and appropriate protection guarantees. This necessitates the development of new conceptual approaches to human rights adapted to the realities of the digital society (D. Byelov & M. Bielova, 2024, p. 7).

Thus, human rights, including the right to life and property, participation in political life, work and employment, social security, culture and education, are either deconstructed and reconstructed through the processes of informatization and digitalization (e.g., privacy and identity, smart governance and public participation, protection of virtual property, freedom of speech in cyberspace, etc.), or face fundamentally new challenges (in particular, the digital divide, algorithmic discrimination, algorithmic dominance, social monitoring, etc.) (J. Nickel, 2019, p. 991).

This transformation, in our opinion, demonstrates the dual nature of the impact of digitalization on the human rights system: on the one hand, traditional rights are being modified under the influence of technological capabilities – privacy is taking on new dimensions in the context of digital traces, political participation is being transformed through e-democracy, and property is expanding to virtual assets, on the other hand, completely new threats to human rights arise, associated with algorithmic decision-making, mass data collection, and digital inequality. This process requires not just the adaptation of existing legal norms, but the creation of a holistic system of digital rights capable of ensuring the protection of human dignity in the conditions of total digitalization of social relations. There is a need to develop new legal instruments that would take into account the specifics of the digital environment and its impact on the implementation of fundamental human rights. At the same time, data and information are becoming not only irreplaceable valuable resources for people’s digital lives, but also carriers of a new type and expression of value, for which human rights in the new era are becoming increasingly important. Whether it is about the characteristics of human rights, their elements, content or form, they are all moving from the physical relations of human rights of the three previous generations to the digital relations of modern human rights, which is the driving force and basis for the development of human rights of the fourth generation. Today, digital human rights can become more effective



only if they are reinforced by digital technologies that contribute to the observance of human rights in accordance with the objective needs of a smart society. This transformation reflects a fundamental paradigm shift: from material objects and physical actions as the basis of legal relations to information flows and digital interactions (R. Radu, 2021, p. 180).

Therefore, in such a context, data is transformed from a simple tool into an independent object of legal protection, and digital technologies become not only a means of realizing rights, but also a condition for their existence, which, in turn, creates a new legal reality where the effectiveness of human rights protection directly depends on the level of technological development and digital literacy of society. There is a need to integrate technological capabilities with legal guarantees to ensure comprehensive protection of the individual in the digital space.

The fourth generation of human rights is the independence and alternativeness of the individual in choosing lawful behavior, which is based on human autonomy, within a single legal field, norms of morality and religion. At the same time, the list of new human rights includes: euthanasia, sex change, organ transplantation, cloning, same-sex marriage, artificial insemination, a child-free family, independent of state interference in life according to religious and moral views. The catalog of human rights of the fourth generation consists of two subgroups: somatic rights and information rights. As we can see, new human rights concern a wide variety of spheres of social relations. Therefore, the problem of regulating such rights is acute in many countries of the modern world, in particular in Ukraine.

The key factors (determinants) of the emergence and evolution of a new generation of human rights, which are due to the progress of medicine and biotechnology and concern the right of an individual to dispose of his own body and organs, are the following:

1) Scientific and technological progress – the globalization of the educational environment, the spread of technical knowledge and the informatization of all spheres of life have accelerated the circulation of information, which has become a key driver of the development of science and society;

2) Interdisciplinarity of scientific exploration - scientific development is not limited to the framework of individual branches of knowledge; the synthesis of various scientific directions contributes to the acceleration of obtaining new results and increases their effectiveness. This applies to both humanitarian and technical disciplines, and such interdisciplinarity is productive for the accumulation of additional knowledge. Somatic rights are the result of such a comprehensive scientific approach;

3) Transformation of social mentality – first of all, there is a change in the social attitude towards

individuality; man is no longer considered as a collective being. The concepts of equality and freedom have caused a fundamental restructuring of the ideology of social and state processes;

4) Evolution of moral and ethical standards - an essential characteristic of respect for the individual is the recognition of the moral autonomy of the individual. With the development of a post-romantic understanding of individual differences, this principle extends to the requirement to ensure that people are free to develop their personality at their own discretion, even if their views seem unacceptable to us or incompatible with our moral ideas (Y. Turyansky, 2020, p. 24).

We agree with the scientists who not only focused on somatic rights, but also substantiated the need for a preliminary philosophical and legal understanding of this issue before its constitutional and legal solution, as well as achieving a principled consensus between legal science, religion and philosophy. This approach seems reasonable, since the human body should be considered inextricably linked to spirituality.

Researchers also see the danger that the greatest loss for humanity will occur in the process of evolution of somatic rights - the loss of the very essence of man. For these reasons, we also do not share the optimism of some authors that thanks to this, man supposedly has a real opportunity not only to improve the world around him, but also to “transform the entire human race.” Is it worth interfering in human nature to the extent of changing the entire human race? Absolutely not!

We advocate for reasonable restrictions on somatic rights (based on constitutional principles and norms), aware of possible resistance along the way.

Scientists argue that the problem of legal registration of the specified possibilities of the person is complicated by the fact that for the first time in the history of mankind, a potential conflict with established religious and moral norms can be observed. Lawyers, philosophers, doctors and theologians are conducting intensive discussions on the fourth generation of human rights. Science is unable to predict how the implementation of these possibilities will affect future generations, which naturally raises the question: is this not a hidden medical experimentation on human nature in the context of globalization processes? Obviously, such a situation is unacceptable and requires a separate scientific study in the legal sphere, since ignoring this issue can have serious consequences for human civilization (O. Bunchuk).

We do not entirely agree with such a categorical statement. It is worth noting that the formulation of “actual denial of the norms of religion and morality” and “catastrophic consequences for the existence of humanity” contains rather categorical statements that require a more balanced approach. The fourth generation of human rights (digital rights) does not necessarily contradict religious or moral principles -

rather, it requires their rethinking in the context of new technological realities. It would be more constructive to talk about the need for an ethical understanding of new technologies, rather than about their a priori negation of traditional values.

### 5. Conclusions.

The analysis conducted demonstrates the evolutionary nature of the development of the concept of human rights, which has gone from theoretical ideas to normative consolidation and international recognition. The generational classification of human rights proposed by K. Vasak demonstrates the historical logic of their formation in accordance with the social needs of each era. At the same time, this concept has significant limitations, in particular, a Eurocentric approach that does not take into account the cultural diversity of legal traditions of different civilizations.

The formation of the fourth generation of human rights reflects cardinal changes in the nature of social relations under the influence of digital technologies. Digital rights fundamentally differ from previous generations in the specificity of the object of legal relations – information and data, as well as in the methods of implementation through technological platforms. This transformation requires not just a supplement to the existing system of rights, but its qualitative reconfiguration, taking into account new forms of social interactions and threats to human dignity in the digital space.

The inclusion of somatic rights alongside digital rights in the fourth generation raises reasonable debates about the ethical limits of expanding the catalogue of human rights. Although some of these rights do indeed question traditional moral and religious norms, this does not mean their a priori denial, but rather highlights the need for a balanced ethical understanding of the technological possibilities of modernity. The development of the fourth generation of rights requires an interdisciplinary approach that combines legal, ethical, technological and social aspects to ensure the protection of human dignity in the face of rapid civilizational change.

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## ЧЕТВЕРТЕ ПОКОЛІННЯ ПРАВ ЛЮДИНИ: ЗМІСТОВНЕ НАПОВНЕННЯ В УМОВАХ ЦИФРОВОГО СУСПІЛЬСТВА

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### Анотація

Стаття присвячена дослідженню концепції четвертого покоління прав людини в контексті сучасних викликів цифрового суспільства. Актуальність дослідження зумовлена необхідністю переосмислення традиційної генераційної класифікації прав людини, розробленої К. Васаком, у зв'язку з появою принципово нових форм правовідносин, де об'єктом виступають дані та інформація в цифровому форматі. Метою дослідження є проведення теоретико-правового аналізу концепції четвертого покоління прав людини у контексті визначення її змістовного наповнення в умовах цифрового суспільства. У статті використано системний підхід, порівняльно-правовий, структурно-функціональний та прогностичний методи. Проаналізовано обмеження традиційної тригенераційної класифікації, зокрема її євроцентристський характер та неврахування культурного різноманіття правових традицій. Розкрито дуальний характер впливу цифровізації на систему прав людини: модифікацію традиційних прав та виникнення принципово нових викликів. Досліджено структуру четвертого покоління прав людини, що включає цифрові та соматичні права. Визначено специфічні характеристики цифрових прав людини, що відрізняють їх від попередніх поколінь: специфічний об'єкт правовідносин - інформація та дані у цифровому форматі; реалізація через цифрові технології. У статті звернено увагу на етичні дилеми, пов'язані з розширенням каталогу прав людини, зокрема потенційний конфлікт з традиційними релігійними та моральними нормами. Констатовано, що формування четвертого покоління прав людини відображає кардинальні зміни в характері суспільних відносин під впливом цифрових технологій. Ця трансформація вимагає не просто доповнення існуючої системи прав, а її якісної переконфігурації з урахуванням нових форм соціальної взаємодії та ймовірних викликів і загроз, обумовлених природою цифрового простору. Зроблено висновок про необхідність збалансованого підходу до розвитку четвертого покоління прав, що поєднує правові, етичні, технологічні та соціальні аспекти для забезпечення захисту людської гідності в умовах стрімких цивілізаційних змін.

**Ключові слова:** права людини, четверте покоління прав людини, цифрові права, соматичні права, цифрове суспільство.